

ORIGINAL

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C.

RECEIVED

NOV 25 1996

Federal Communications Commission  
Office of Secretary

In re:

AMENDMENT OF SECTION 73.606(b)  
TABLE OF ALLOTMENTS,  
TV BROADCAST STATIONS.  
(WAVERLY, NEW YORK AND ALTOONA,  
PENNSYLVANIA)

MM Docket No. 96-11  
(RM-8742)

TO: The Chief, Allocations Branch

DOCKET FILE COPY ORIGINAL

OPPOSITION TO PETITION FOR RECONSIDERATION

WSKG Public Telecommunications Council ("WSKG"), by its attorneys and pursuant to the Commission's Rules, opposes the Petition for Reconsideration filed by Renard Communications Corp. ("Renard").<sup>1/</sup> Renard seeks reconsideration of the FCC's *Report and Order* allotting Channel \*57- to Waverly, New York, and reserving it for noncommercial educational use (accompanied by a slight change in the reference coordinates for Channel \*57, Altoona, Pennsylvania.)<sup>2/</sup> Renard's petition is without merit. Renard is a disgruntled proponent of a TV Station allotment that conflicts with the FCC's proposed DTV plans. Renard's intrusion in this proceeding is wholly unrelated to the merits of the Channel \*57-, Waverly

---

<sup>1/</sup> This opposition is timely filed. Public Notice of Renard's Petition appeared in the Federal Register on November 5, 1996. The FCC rules specify that Oppositions to Petitions for Reconsideration in rulemaking proceedings are due 20 days after Federal Register publication.

<sup>2/</sup> Please note that on November 14, 1996, WSKG petitioned for reconsideration of the site restriction on the Altoona allotment, so that WSKG can locate a suitable transmitter site for its planned Waverly television station.

No. of Copies rec'd  
List ABCDE

024

allotment -- its comments relate solely to digital TV ("DTV") frequency allocation matters that are the subject of an open Commission rule-making proceeding in *Sixth Further Notice of Proposed Rulemaking*, FCC 96-137, released August 14, 1996) (hereinafter "*Sixth Further Notice*").

For example, Renard suggests that the Waverly allocation somehow conflicts with its proposed Channel 39, Geneseo, NY allocation. However, Renard demonstrates no connection or potential conflict between use of Channel \*57- at Waverly, New York and its Geneseo/Rochester problem on Channel 39. Renard has not shown how use of Channel \*57- at Waverly "restricts" its options in Geneseo to use frequencies other than Channel 39 for DTV purposes. While Renard refers to the "possible need to use one of these channels as a Rochester DTV allocation," it does not show that Channel \*57- is even usable in the Rochester area.

As shown in the attached Engineering Statement of Bernard R. Segal, P.E., additional channels other than Channel \*57- are available for potential DTV allotments to Rochester. The use of Channel \*57- at Waverly does not foreclose alternate allotment possibilities for Renard's proposed Geneseo TV allotment.

In addition, Renard suggests that the FCC may not take action at Waverly based solely on its proposed DTV table. This suggestion is inconsistent with Paragraph 61 of the *Sixth Further Notice*, which provided:

Any petitions [to add NTSC allotments for new stations] that are currently on file and any rule making proceedings that are currently open will be addressed on a case-by-case basis, taking into account the impact on the draft DTV allotment table.

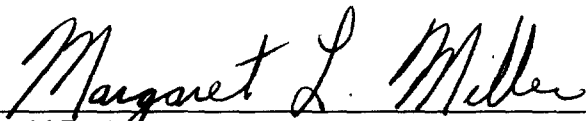
Thus, the FCC already rejected the approach suggested by Renard (i.e., to stay all rule-making proceedings pending adoption of a final DTV allotment table). The FCC decided to address petitions like WSKG's on a case-by-case basis. Renard clearly has not shown that the FCC's decision to move forward with the allotment of a reserved Channel \*39 at Waverly, NY, in order to promote public television service in view of its DTV proposal, is inconsistent with public interest.

Finally, Renard's complaints about DTV impact on his own Channel 39, Geneseo allotment proceeding do not belong here. Such arguments should be raised in comments to the *Sixth Further Notice*, not in the context of a rulemaking proceeding for a specific allotment.

For all these reasons, WSKG opposes Renard's Petition for Reconsideration and respectfully requests that the FCC deny it.

Respectfully submitted,

WSKG PUBLIC TELECOMMUNICATIONS COUNCIL

By:   
Todd D. Gray  
Margaret L. Miller

Attorneys for Petitioner

**DOW, LOHNES & ALBERTSON**  
1200 New Hampshire Avenue, Suite 800  
Washington, DC 20036  
202-776-2000

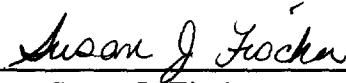
November 25, 1996

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing "Opposition to Petition for Reconsideration" was served this 25th day of November, 1996, by first class United States mail, postage prepaid, upon the following:

James L. Oyster, Esq.  
Law Office of James L. Oyster  
108 Oyster Lane  
Castleton, VA 22716  
Counsel for Renard Communications Corp.

John A. Karousos\*  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2000 M Street, Fifth Floor  
Washington, D.C. 20554

  
\_\_\_\_\_  
Susan J. Fischer

\* Via Hand Delivery.

Bernard R. Segal, P.E.  
Consulting Engineer  
Washington, DC

---

ORIGINAL

**ENGINEERING STATEMENT  
PREPARED ON BEHALF OF  
WSKG PUBLIC TELECOMMUNICATIONS COUNCIL  
MM DOCKET NO. 96-11  
WAVERLY, NEW YORK, AND  
ALTOONA, PENNSYLVANIA**

The instant engineering statement has been prepared on behalf of WSKG Public Telecommunications Council (WSKG) and is in support of an Opposition to the Petition for Reconsideration by Renard Communications Corp. (Renard) of the FCC's Action in the Report and Order in MM Docket No. 96-11 which allotted channel \*57 to Waverly, New York, with a concomitant change in the reference coordinates for channel \*57, Altoona, Pennsylvania.

The thrust of Renard's Petition is that the allotment of channel \*57 to Waverly during the pendency of the FCC's deliberations regarding DTV allotments pursuant to the Sixth Report and Order in MM Docket Number 87-268 could reduce the number of channels available for possible consideration for an alternative to the FCC's channel 39 allotment proposal for Rochester, New York. The Petitioner's reasoning is flawed. A comparison of the FCC proposed DTV pairings with the Broadcasters Caucus DTV pairings shows the following:

Bernard R. Segal, P.E.  
Consulting Engineer  
Washington, DC

---

Engineering Statement  
WSKG Public Telecommunications Council  
MM Docket Number 96-11

Page 2

<u>Rochester, New York</u>	
<u>FCC Draft</u> <u>Allotment Plan</u> (NTSC/DTV)	<u>Broadcasters Caucus</u> <u>Draft Allotment Plan</u> (NTSC/DTV)
8/39	8/28
10/32	10/32
13/59	13/58
21/16	21/65
31/28	31/59

The foregoing tabulation shows that channels 58 and 65, proposed for DTV use under the Caucus plan, are not duplicated under the FCC plan. Thus, it is clear that there exists a pool of at least seven channels for potential allotment to Rochester for the five eligible existing NTSC stations. Other channels may be available, too, but the issue at hand does not warrant additional study. It is sufficient to point out that additional channels other than channel \*57, allotted to Waverly, could be employed at Rochester.<sup>1</sup> The use of

---

<sup>1</sup> In this regard, the Petitioner has not even demonstrated that channel 57 is a potentially useable channel at Rochester. Without support, the Petitioner asserts that the allotment of channel \*57 to Waverly "is potentially in conflict with the Geneseo proposal due to the possible need to use one of these channels as a Rochester DTV allocation."

Bernard R. Segal, P.E.  
Consulting Engineer  
Washington, DC

---

Engineering Statement  
WSKG Public Telecommunications Council  
MM Docket Number 96-11

Page 3

channel \*57 at Waverly does not foreclose alternate allotment possibilities to  
channel 39 at Rochester.

I declare under penalty of perjury that the foregoing is true and  
correct. Executed on November 22, 1996.

A handwritten signature in cursive script, reading "Bernard R. Segal".

Bernard R. Segal, P.E.